

REMARKS

In response to the Office Action dated January 25, 2008, Applicants submit the following amendment and remarks. Claims 1 and 16 are amended. Support for the amendments are found throughout the specification. No new matter has been added. Reconsideration of the grounds of rejection is respectfully requested in view of the amendments and remarks herein.

Summary of the Office Action

References to paragraphs in the subject office action are referred to herein in parentheses identifying the appropriate paragraph, e.g. (para x).

Claims 1, 16 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,554,460 ("Wu") in view of U.S. Patent No. 6,291,763 ("Nakamura") (para 2).

Remarks

A. Rejection of claims 1, 16 and 17 under 35 U.S.C. § 103(a)

In response to the Examiner's rejection of claims 1, 16 and 17, the Applicants respectfully assert that the pending claims are allowable over the cited references because the Examiner has failed to establish a *prima facie* case of obviousness for the reasons discussed below.

1. Independent claims 1 and 16

Independent claims 1 and 16 stand rejected under 35 U.S.C. § 103(a).

Amended independent claim 1 provides for a sealed monolithic electrochromic system. The system comprises: a front plane consisting of at least one porous monolithic electrochemical cell located on a substrate said at least one porous monolithic electrochemical cell having a pattern and an edge surrounding said pattern, wherein said at least one porous monolithic

electrochemical cell comprises a working electrode, an insulating layer, a counter electrode, and an electrolyte, wherein said electrolyte is absorbed into said at least one porous monolithic electrochemical cell; and a rear plane consisting of a sealing material that surrounds said at least one porous monolithic electrochemical cell and is located in said edge; wherein said front plane and rear plane are sealed along the edge surrounding said pattern. (Emphases added)

Amended independent claim 16 provides for a sealed monolithic electrochromic system. The system comprises: a substrate supporting at least one porous monolithic electrochemical cell, said porous monolithic electrochemical cell having a pattern, wherein said at least one porous monolithic electrochemical cell comprises a working electrode, an insulating layer, a counterelectrode, an electrolyte and contacts for said working electrode and said counter electrode for interconnection with at least one electric circuit, wherein said electrolyte is absorbed into each of said porous monolithic electrochemical cell; and a sealing material comprising an adhesion ply of plastic and a laminate comprising at least an adhesion layer and a barrier layer, wherein the adhesion layer is placed over said adhesion ply, wherein said sealing material is located on an edge of said pattern and covers each of said porous monolithic electrochemical cells. (Emphases added)

Applicants respectfully assert that the prior art references, Wu and Nakamura, alone or in combination, do not include the elements underlined for claims 1 and 16, in the above paragraphs, for at least the reasons discussed below. First, Wu does not disclose or suggest an electrochromic system. Second the section of Wu identified for a "pattern of a porous structure supported on a substrate" describes a region of the electrochemical cell lacking a layer of the second electroactive material. This is not the same as a porous monolithic electrochemical cell located on a substrate. Applicants can find no indication in Wu of a substrate supporting one or

more porous monolithic electrochemical cells. Wu at Col. 2, lines 38-40 describes a porous substrate which is not the same as a porous monolithic electrochemical cell. Applicants can find no indication that the electrochemical cell of Wu has any porosity. Third, only the porous substrate of Wu is filled with electrolyte which is not the same as the electrolyte adsorbed by a porous monolithic electrochemical cell.

Regarding amended claim 16 in particular, Applicants fail to find any indication in Nakamura where the sealing material includes a barrier layer.

For at least these reasons, Applicants respectfully submit that amended claims 1 and 16 are non-obvious under 35 U.S.C. § 103(a) over Wu and Nakamura, alone or in combination.

2. There is no motivation to combine Wu with Nakamura

As discussed in Part A.1, Wu and Nakamura alone or in combination do not teach or disclose the limitations of amended claims 1 and 16. Even if combining Wu and Nakamura resulted in a teaching of each claim limitation, one of skill in the art would not be motivated to combine Wu and Nakamura for at least the reasons discussed below.

When a proposed modification would render the prior art device being modified unsatisfactory for its intended purpose, then there is no motivation to make the proposed modification. *In re Gordon*, 773 F.2d 900 (Fed. Cir. 1984). Applicants submit that there is no motivation to combine Wu with Nakamura because it would make Wu unsatisfactory for its intended purpose of use in a rechargeable battery or a primary battery.

Wu teaches the fabrication of electrodes, as illustrated in Figures 1 and 2, which may be stacked on top of each other to form electrochemical device having a “jelly roll” configuration or a stacked configuration. Col. 5, lines 6-38, Figures 4 and 5. When the individual electrodes, of Figures 1 and 2, are in a stacked or jelly roll configuration, the electrodes have electrical

communication with each other through physical contact with the electrolyte filled porous substrate and a layer of electroactive material. Figures 4 and 5. Applying the sealing material of Nakamura to electrodes of Wu, as suggested by the Examiner, would prevent this electrical communication between the stacked electrodes of Wu thus rendering Wu's battery inoperable. Therefore, Applicants respectfully submit that amended claims 1 and 16 are non-obvious under 35 U.S.C. § 103(a) over Wu and Nakamura, alone or in combination.

3. Rejection of Claim 17

Dependent claim 17 stands rejected under 35 U.S.C. § 103(a).

Dependent claim 17 depends directly or indirectly on independent claim 16. Therefore, for the reasons noted above, claim 17 is allowable because it depends from an allowable base claim.

CONCLUSION

In view of the foregoing remarks, it is submitted that pending claims 1, 16 and 17 are in condition for allowance. Accordingly, reconsideration and timely allowance of claims 1, 16 and 17 are requested.

Applicants respectfully request reconsideration and withdrawal of the rejections based on 35 U.S.C. § 103(a) presented in the Office Action mailed January 25, 2008. The Examiner is invited to contact the undersigned at 215-963-4764 to discuss any matter concerning this Application.

The Commissioner is hereby authorized to charge any fee due in connection with this filing to Deposit Account **50-0310**.

Respectfully submitted,

April 25, 2008

/SharonBMcCullen/

Sharon B. McCullen
Registration No. 54,303

MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
215-963-4764